

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-1782

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United States of America,

Appellee,

v.

Mike Merrival, Jr.,

Appellant.

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Appeal from the United States  
District Court for the District  
of South Dakota.

[UNPUBLISHED]

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Submitted: September 30, 2005

Filed: October 14, 2005

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Before ARNOLD, FAGG, and SMITH, Circuit Judges.

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PER CURIAM.

Mike Merrival, Jr. pleaded guilty to being a felon in possession of a firearm, a Class C felony, and was sentenced to time served and 2 years supervised release. The district court\* later revoked supervised release upon Merrival's admission of violations. Noting the Guidelines recommended imprisonment range of 5-10 months, and Merrival's past behavior and noncompliance with supervision, the district court sentenced Merrival to 24 months in prison without further supervised release. On appeal, Merrival contends the sentence was unreasonable because it was much higher

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\*The Honorable Richard H. Battey, United States District Judge for the District of South Dakota.

than the recommended range, and it was unsupported by any finding of atypical facts or by any discussion of 18 U.S.C. § 3553(a) factors. We disagree.

The revocation sentence did not exceed the statutory limit, and the district court considered appropriate factors in imposing the sentence. See 18 U.S.C. § 3583(e) (requiring consideration of § 3553(a) factors; authorizing maximum prison term of 2 years upon revocation of supervised release where original offense is Class C felony). Having concluded the sentence is not unreasonable, see United States v. Tyson, 413 F.3d 824, 825 (8th Cir. 2005) (per curiam) (standard of review; sentence within statutory range and grounded in concerns regarding defendant's past behavior was not unreasonable), we affirm the district court.

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